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International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the fifth periodic report of Belarus*

The Human Rights Committee, at its ninety-seventh session (A/65/40 (Vol. I), para. 40), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 40 of the Covenant.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on measures taken to implement the Committee's latest recommendations (CCPR/C/84/Add.4 and Add.7), including any relevant statistical data.

2. Please also report on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, including examples of cases in which the provisions of the Covenant have been referred to by national courts.

Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (arts. 2, 3 and 26)

3. Please indicate what measures have been or are being taken by the State party to fulfil its obligations under the Optional Protocol and cooperate with the Committee, particularly by complying with the requests for interim measures issued by the Committee, especially in death penalty cases, and by implementing its Views. Please also indicate what procedures are in place for the implementation of the Committee's Views under the

* Adopted by the Committee at its 114th session (29 June-24 July 2015).

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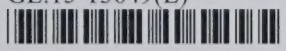

Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in relation to the State party.

4. In the light of the previous concluding observations of the Committee (see CCPR/C/79/Add.86, para. 20), please report on the progress made in establishing an independent national human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134, annex).

Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20 and 26)

5. Please indicate whether steps have been or are being taken to adopt comprehensive legislation that addresses discrimination, including in the private sphere, prohibits direct, indirect and multiple discrimination, contains a comprehensive list of grounds for discrimination, including sexual orientation and gender identity, and provides for effective remedies in judicial and administrative proceedings.

6. Please clarify whether hate speech is prohibited under the law and whether measures have been taken: (a) to prohibit organizations and propaganda activities, organized or otherwise, that promote and incite racial discrimination and hate speech; and (b) to recognize racist motives as a general aggravating circumstance for all offences and crimes.

7. Please report on measures taken to combat discrimination against Roma and their negative portrayal/stereotyping in the media, and ensure their access to education, employment, health care and housing on an equal basis with others. Please also report on measures taken to address racial profiling against Roma by law enforcement officers.

8. Please report on measures taken: (a) to address discrimination against persons with disabilities, to ensure their access to appropriate education, employment and social assistance, as well as de facto accessibility in public places and transportation; and (b) to combat discrimination and stigma against persons living with HIV/AIDS.

9. Please comment on reports of discrimination, harassment, widespread homophobic discourse and hate speech, including in the media and notably by the President, and violence against lesbian, gay, bisexual, transgender and intersex individuals and activists, and report on measures taken to ensure protection of victims and address the prevalent impunity for such acts.

Equality between men and women and violence against women, including domestic violence (arts. 2, 3, 7 and 26)

10. Please report on measures taken: (a) to increase the representation of women in decision-making positions in the legislative and executive bodies and the judiciary, as well as in the private sector; (b) to eradicate stereotypes in the roles, responsibilities and identity of women and men in the family and society; and (c) to address the persistent wage gap between men and women.

11. Please indicate what measures have been taken to prevent and combat all forms of violence against women, including domestic violence and marital rape, inter alia regarding: (a) training on legal provisions, detection and handling of such cases; (b) encouraging reporting of such cases and ensuring they are effectively investigated and victims are provided with adequate remedies; and (c) sufficiency of safe shelters and other resources and support services for victims. Please report on the implementation in practice of the provisions of the Principles of Crime Prevention Act of 4 January 2014 relating to domestic violence. Please indicate whether steps have been or are being taken to adopt specific legislation criminalizing domestic violence and marital rape. Please also provide

information on the number of complaints lodged by victims of domestic and sexual violence, investigations carried out, types of penalties imposed and remedies granted to victims.

Right to life (arts. 6, 7 and 14)

12. Please report on the progress made in investigating: (a) the cases of enforced disappearances dating to 1999 and 2000, particularly those of Viktar Hanchar, Anatol Krasovsky, Yury Zakharenko and Dimitry Zavadsky; and (b) the cases of journalists Veranika Charkasava (murdered on 20 October 2004), Vasil Hrodnikau (found dead on 18 October 2005) and Aleh Biabenin (found dead on 3 September 2010). Please also provide information on steps taken to prevent cases of death in custody, on the number of such cases since 2010 (with an indication of the cause of death) and on investigations into such incidents and prosecution of those responsible, including in the case of the death of Ihar Ptichkin in August 2013 in Minsk detention facility No. 1 (SIZO).

13. With reference to the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 8), please report on the progress made towards the abolition of the death penalty. Pending the abolition of the death penalty, please indicate what measures have been taken: (a) to bring relevant legislation proscribing that the family of an individual under sentence of death is not informed in advance of the date of the execution, that the body of the executed prisoner is not handed over to the family and that the location of the burial site is not disclosed, in accordance with article 7 of the Covenant; (b) to ensure that persons accused of crimes for which the death penalty is imposed are provided in practice with all fundamental fair-trial guarantees; and (c) to ensure the effective exercise of the right of those sentenced to death to seek pardon or commutation of the sentence. Please also clarify whether relevant legislation provides for cassation appeals against sentences, including death sentences, handed down by the Supreme Court as a court of first instance.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (art. 7)

14. In connection with the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 9), please respond to reports:

(a) That torture and ill-treatment is practised both in pretrial and prison facilities, including to extort confessions that are then used as evidence in court by law enforcement officers, officers of the State Security Committee (KGB) and prison personnel against persons deprived of their liberty, in particular civil society activists, and that impunity for such acts is prevalent;

(b) That those complaining of torture risk reprisals such as solitary confinement or other harsh physical and psychological ill-treatment;

(c) That no effective and fully independent mechanism has been set up to receive complaints and to investigate allegations of torture and ill-treatment, and that alleged perpetrators are not suspended from office pending investigation;

(d) That documentation of injuries inflicted on prisoners is problematic because medical units are structurally part of the prison system.

15. Please indicate the measures taken: (a) to define and criminalize torture as an independent crime in the Criminal Code, in full conformity with article 7 of the Covenant; and (b) to promptly and impartially investigate allegations of torture and ill-treatment, including of political candidates and activists arrested in the run-up to the presidential election in 2006 and during or after opposition demonstrations on the day of the election in December 2010, such as the allegations of torture and ill-treatment of the 2006 presidential

candidate Aliaksandr Kazulin and of the 2010 presidential candidates Andrei Sannikau and Ales Mikhalevich. Please provide information on the number of reported cases of torture and ill-treatment, the investigations conducted and their outcome, including the sentences handed down against perpetrators and the remedies granted to victims.

Elimination of slavery and servitude (art. 8)

16. Please provide information on measures taken to combat all forms of forced labour. Please also report on measures taken: (a) to establish a formal national victim identification and referral mechanism, to improve the identification of victims of trafficking and to provide specialized training for all stakeholders involved in the identification process; (b) to investigate and prosecute cases of trafficking effectively, including forced labour and forced prostitution; and (c) to increase resources devoted to victim assistance and protection services. Please comment on the limited number of prosecutions under article 181 of the Criminal Code and clarify whether purchasing and selling of a person is still a required element for the qualification of acts as trafficking. Please provide statistics on the number of cases of sex and labour trafficking, the investigations and prosecutions initiated and the actual criminal convictions under article 181 of the Criminal Code.

Liberty and security of person and humane treatment of persons deprived of their liberty (arts. 9 and 10)

17. In the light of the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 10), please indicate what steps have been taken to ensure that: (a) pretrial detention may be ordered only by a judge and is not based solely on the severity of the alleged crime; and (b) judicial review of such detention satisfies the standards required under article 9 of the Covenant. Please also provide information on non-custodial alternative measures to pretrial detention and their application in practice.

18. Please explain the compatibility of the practice of preventative arrests, administrative arrests and arbitrary detention of individuals prior to important political or social events with article 9 of the Covenant. Please comment on information that authorities sometimes resort to forced psychiatric treatment against human rights defenders, and in that regard provide information on the following allegations: (a) incommunicado detention and forced psychiatric treatment in 2013 of a doctor in connection with his investigation into corruption in the health service in Vitebsk; and (b) forced psychiatric treatment of Andrey Kasheuski, an opposition activist and newspaper distributor, for wearing a ribbon from the Euromaidan protests.

19. Please comment on reports that: (a) former political prisoners who have been pardoned are still subject to a preventive supervision procedure restricting their travel and requiring them to regularly report to the police; and (b) their civil and political rights have not been fully restored, as they are prohibited from running for or occupying public office, and required to obey the imposed restrictions, including a curfew and bans on involvement in demonstrations, and to inform the authorities about any change in their place of residence.

20. With reference to the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 11), please report on measures taken to prevent and reduce overcrowding and to improve conditions in detention facilities. Please respond to reports of poor food quality, insufficiency of basic sanitary and hygienic items, inadequate medical treatment, lack of adequate bedding, the practice of having to sleep in turn, as well as a high risk of contracting chronic diseases by detainees in prisons in Minsk and Baranavichy and punishment cells in the colonies of Navapolatsk and Ivatsevichy because of cold and damp cells. Please clarify whether an independent and functioning complaints mechanism is available to persons deprived of their liberty, including with regard to sexual violence in

places of detention. Please also respond to concerns about the independence and effectiveness of public oversight commissions, in particular as regards handling of complaints from detainees.

21. Please comment on reports that political prisoners serving their sentence face administrative punishment for alleged violations of prison rules, sometimes with prolongation of their sentences, and are deprived of the right to family visits or receipt of parcels. Please also report on steps taken to ensure that disciplinary sanctions in prisons are not imposed arbitrarily and clarify whether effective appeal procedures and oversight mechanism are in place to monitor such sanctions.

Right to a fair trial and independence of the judiciary (art. 14)

22. With reference to the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 13), please report on measures taken to ensure in practice the full independence and impartiality of judges from the executive branch, including their security of tenure. Please provide information on the procedures and criteria for the selection, appointment, promotion, disciplining, suspension and dismissal of judges and on the role of the executive in that process. Please also report on measures taken to address: (a) allegations of politically motivated court decisions and prosecutorial bias; (b) accusatory bias in criminal cases, as recognized by the Supreme Court in its reviews, and the very low rate of acquittals; and (c) failure to respect the decisions of the Constitutional Court.

23. Please comment on reports of failure on the part of the authorities to observe fair-trial guarantees in the context of trials of opposition candidates and human rights activists following the presidential elections of 2006 and 2010, including limitations on the right to a public hearing, access to defence counsel, violation of the presumption of innocence and of the principle of equality of arms.

24. With reference to the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 14), please respond to concerns that the independence of the legal profession is undermined, including because of the mandatory membership in a State-controlled bar association. Please comment on reports of harassment and intimidation of lawyers, overall interference in their work, including breaches of lawyer-client confidentiality, and arbitrary disbarment, in particular of those lawyers publicly expressing concern about torture and those working on politically sensitive cases and representing opposition presidential candidates in connection with the presidential elections of December 2010.

Freedom of movement (art. 12)

25. With reference to the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 12), please clarify whether the *propiska* (address registration) system has been abolished and indicate what restrictions on the freedom to leave the country are provided for by law and how they conform with article 12 of the Covenant. Please also comment on reports of arbitrary restrictions on the freedom of movement of human rights defenders, lawyers and journalists who are banned from leaving the country and on the expulsion of Belarusian human rights defender Elena Tonkacheva reportedly in connection with her activities.

Right to privacy and family life (art. 17)

26. Please clarify whether wiretapping and similar investigative measures are authorized only by a court. Please respond to concerns that personal data are not adequately protected in law and in practice and, in this respect, provide information on legislation on protection of personal data and on the legal safeguards in place against arbitrary interference with the

privacy of individuals, including with regard to protection of their personal data, and the implementation of this legislation in practice. Please also explain how the following reported activities are compatible with article 17 of the Covenant: (a) the use of the surveillance system on the Internet (the so-called SORM) and the obligation of Internet service providers to store and retain data on their users' activity for a year (Presidential Decree No. 60 of 1 February 2010); and (b) mandatory storage by Internet service providers of full information about their subscribers' actions on the Internet for a year (Decree No. 6 of 18 February 2015 of the Ministry of Communication and Informatization).

Freedom of conscience and religious belief (arts. 2, 18 and 26)

27. With reference to the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 16), please report on the status of the draft law on conscientious objection to military service introduced in the House of Representatives in November 2014. Please indicate, inter alia, whether any draft or adopted legislation extends the right of conscientious objection against military service to persons who hold non-religious beliefs, whether the length of alternative service is equal to the duration of military service and, if not, what are the reasons that justify any such difference.

28. Please explain how the restrictions imposed on the exercise of the freedom of religion—such as the compulsory State registration of religious communities, which imposes complex registration requirements, and the State permission for any public exercise of religion and punishment of any unregistered religious activity—are compatible with the State party's obligations under article 18 of the Covenant. Please also comment on reports of hostility towards and harassment of members of minority religious groups, including denying them permits for places of worship and raiding their private residences.

Freedom of expression, peaceful assembly, freedom of association and the right to participate in public life (arts. 19, 21, 22 and 25)

29. In the light of the previous concluding observations (see CCPR/C/79/Add.86, para. 17), please respond to consistent reports of arbitrary restrictions on freedom of expression in law and in practice, including: (a) restrictions on access to information of public interest; (b) State control over the media, and harassment and censorship of independent media outlets; (c) mandatory State accreditation for journalists, and penalties against those not accredited by authorities; (d) restrictions on Internet-based expression and extra-journalistic regulation of online media; (e) criminalization of libel and defamation; and (f) blacklisting of artists and the application of pressure on radio stations not to play music by blacklisted artists. Please comment on allegations of mass-scale pressure, harassment and repression of civil society activists, journalists from opposition and independent media and political opponents, including violence, house searches and office raids, confiscation of equipment and documentation, police surveillance, arbitrary arrests and charges of speculative administrative offences or criminal offences on allegedly politically motivated charges, and smear campaigns in the State-run media, inter alia during or in the immediate aftermath of presidential and parliamentary elections.

30. In connection with the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 18), please explain how the restrictions on the exercise of freedom of peaceful assembly, such as those outlined in the Law on Mass Events, including those set out below, are compatible with the State party's obligations under the Covenant: (a) prior authorization for holding an assembly and routine denial of permission; (b) reported excessive requirements on organizers of assemblies with regard to maintenance of public order and safety, provision of medical services and clean-up services; (c) restriction of assemblies to certain permissible locations and limiting the size of assemblies organized by physical persons; and (d) prohibition of assemblies aimed at raising awareness about

human rights issues or participation in an electoral process and absolute ban on peaceful spontaneous assemblies, simultaneous assemblies and counter-demonstrations.

31. Please comment on consistent reports of violations of freedom of assembly in practice, including repressive measures by law enforcement officers, excessive use of force, arbitrary arrests and detentions, and imposition of harsh fines, administrative arrest or prison sentences on journalists and opposition and human rights activists for exercising their right to peaceful assembly, including:

(a) In the run-up to the World Ice Hockey Championship in May 2014, when dozens of human rights activists calling for the boycott of the tournament were allegedly pre-emptively and arbitrarily detained based on trumped up charges and sentenced to administrative arrest;

(b) During the "silent protests" against the government, which started on 3 July 2011, when police reportedly employed excessive use of force and arbitrarily arrested and detained a large number of peaceful protestors;

(c) During the crackdown on the demonstrators at Independence Square in the evening of the election day (19 December 2010) and its aftermath, resulting in police violence, mass arrests, detentions and administrative and criminal sentences against opposition presidential candidates, opposition activists and journalists.

32. With reference to the Committee's previous concluding observations (see CCPR/C/79/Add.86, para. 19), please provide information on measures taken to guarantee, both in law and in practice, the free exercise of freedom of association, including information on measures to address: (a) the restrictive rules on registration of public associations, reports of widespread denial of registration on politically motivated or discriminatory grounds, including to lesbian, gay, bisexual, transgender and intersex organizations and the Human Rights Center *Viasna*; (b) the criminalization of participation in the activities of unregistered associations; (c) the restrictions on funding received from foreign sources, including State approval of such funding and criminalization of any unauthorized foreign funding; and (d) the harassment and intimidation of registered civil society organizations conducting activities perceived to be contrary to State's policies and practices. Please also provide information on steps taken to ensure free registration and operation of trade unions, and comment on reports of interference in the activities of the independent trade unions, especially in the large State-owned sector, and intimidation of trade union leaders and members, including allegations of beatings, arrest and detention.

33. Please comment on reports of pressure, persecution, intimidation, harassment and detention of voters and opposition political candidates, including in connection with the 2010 elections, when five opposition candidates received prison sentences. Please explain how the following activities are compatible with the State party's obligations under articles 19 and 25 of the Covenant: (a) allegations of limited access of opposition candidates to the media; (b) criminalization of calls for boycott of elections; and (c) administrative responsibility for the conduct of opinion polls without special accreditation from the National Academy of Sciences of Belarus.

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